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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Group Art Unit: 2645
	:	Examiner Md S Elahee
Michael Wayne Brown	:	Intellectual Property
Serial No: 09/931,991	:	Law Department - 4054
Filed: 08/17/2001	:	International Business
Title: HOLD QUEUE MANAGEMENT	:	Machines Corporation
	:	11400 Burnet Road
	:	Austin, Texas 78758
	:	Customer No. 46,242
Date: _____	:	

CERTIFICATE OF MAILING

I hereby certify that this correspondence including a Brief on Appeal (in triplicate), and this transmittal letter (duplicate) is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 22, , 2005.

Janis E. Clements — 12-22-05

Janis E. Clements — Date

TRANSMITTAL OF APPELLANTS' BRIEF UNDER 37 CFR 1.192(a)

Commissioner for Patents
P.O.Box 1450
Alexandria, VA 22313-1450

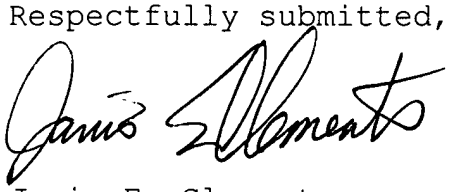
Sir:

Attached is Appellants' Brief (in triplicate) in this Appeal from a decision of the Examiner dated July 28, 2005 finally rejecting claims 1-17.

Please charge our Deposit Account No. 09-0447 in the amount of $500.00 for the Appeal Brief fee (a duplicate of this transmittal is included).

The Commissioner is hereby authorized to charge any additional fee which may be required or credit any overpayment to Deposit Account No. 09-0447.

Respectfully submitted,



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BRIEF ON APPEAL

Commissioner for Patents
P.O.Box 1450
Alexandria, VA 22313-1450

Sir:

This is an Appeal from the Final Rejection of Claims 1-17 of this Application dated July 28, 2005. Section VIII. Appendix containing a copy of each of the Claims is attached.

I. Real Party in Interest

The real party in interest is International Business Machines Corporation, the assignee of the present Application.

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II. Related Appeals and Interferences

None

III. Status of Claims

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

There are 17 claims in this Application.

B. STATUS OF ALL THE CLAIMS

1. Claims cancelled: None.
2. Claims withdrawn from consideration but not cancelled: None.
3. Claims pending: 1-17.
4. Claims allowed: None.
5. Claims rejected:1-17.

C. CLAIMS ON APPEAL

Claims on appeal:1-17.

IV Status of Amendments

No amendments have been filed after Final Rejection.

V. Summary of Claimed Invention

The present invention is directed to hold queue management enabling a caller to pause position in a hold queue, and allowing the caller to request an amount of time for paused hold period. The caller of the present invention is allowed to move away from the telephone while on hold in a "paused hold status" initiated by caller without losing his position in the queue. The caller's position in the queue can be determined based on the amount of time spent in the paused hold status.

Accordingly, the present invention (as defined in independent claims 1, 8, 13, 16 and 17) provides an implementation for a caller to access information regarding his position in the hold queue, such as estimated hold time and options for managing caller's hold position, including selecting the "pause" option on their input device and entering the amount of time, in minutes that they want to pause (Application page 9-10);

receiving an incoming telephone call from at lest one caller (Application p. 10, referring to Fig 3);

placing the caller in a first position in the hold queue (Application p.9, referring to Fig. 3);

informing caller of estimated hold time and options for managing caller's hold position (Application p. 9, referring to Fig. 3);

responsive to a request from a caller, pausing the first position in the hold queue to create a paused hold status wherein caller remains in position in the queue while caller can opt to move away from telephone while on hold without losing caller's position in the queue, (Application

page 9 through page 10, referring to Fig 3);

requesting by the caller an amount of time for paused hold period, (Application, page 9 through page 10,referring to Fig. 3 of the drawings);

determining when the requested paused hold period has ended (Application page 10 through page 11, referring to Fig. 3), and

placing the call back into the hold queue at paused position (Application, page 11, with reference to Fig. 3 of the drawings).

Independent claims 1, 8, 13, 16, and 17 cover the above described invention in a network environment for transferring information, e.g., a computer system using a Private Branch Exchange Switch (PBX). Fig. 1 is described in the Specification showing the implementation being carried on a computer system routed within a call center to a PBX with some type of automated call distribution capacity. (Page 5).

Dependent claims 2-7,9-12, and 14-15 cover a further embodiment of the above described general invention wherein a caller is returned to an on hold status to create a second position in the hold queue, wherein the second position in the hold queue is shorter than or equal to the first position in the hold queue; the caller changes his position in the hold queue; and pause time is credited to caller based on amount of time caller has been in hold queue (Application, page 11 through page 12).

VI. Grounds of Rejection

Claims 1, 4-10, 12, 13, 16 and 17 are rejected under 35 U.S.C. 103(a) over the combination of Gisby (US6,002,760) in

view of Nabkel et al. (US6,011,845).

Claims 2, 3, 11, 14, and 15 are rejected under 35 U.S.C. 103(a) as unpatentable over Gisby (US6,002,760) in view of Nabkel et al. (US6,011,845) further in view of Walker et al. (US5,946,388).

VII. Argument

Claims 1, 4-10, 12, 13, 16 and 17 are unobvious over the combination of Gisby (US6,002,760) in view of Nabkel et al. (US6,011,845), and, thus, are patententable under 35 U.S.C. 103(a).

The Final Rejection of claims 1, 4-10, 12, 13, 16, and 17 as being unpatentable under 35 U.S.C. 103(a) over the combination of Gisby (US6,002,760) in view of Nabkel et al. (US6,011,845) is respectfully traversed.

The present invention involves hold queue management enabling a caller to pause position in a hold queue, and allowing the caller to request an amount of time, i.e.15 minutes, for the paused hold period. The two cited references, neither singly nor in combination suggest the specific implementation of the present invention for such paused hold status or caller's control of a specific amount of time for the paused hold period.

Gisby (US6,002,760) The Basic Reference

The Examiner states Gisby teaches receiving an incoming telephone call from at least one caller, and placing the caller in a position in a queue. Applicants concede the Gisby teaches these points. The Examiner further states that Gisby teaches informing caller of estimated hold time

and options for managing caller's hold position, and responsive to a request from a caller, pausing the queue position to create a paused hold status wherein caller remains in position in the queue. However, the present invention differs from the teaching of Gisby in two major aspects: informing caller of estimated hold time and options for managing caller's hold position in the queue, and creating a paused hold status responsive to caller's request. Gisby only teaches informing caller that "due to an unusually long queue, he may disconnect and wait for a call back without losing priority in the queue." (Gisby column 5, lines 11-14). Therefore, the only "option" given to the Gisby caller is to hang up the telephone. Where there is only one choice, "options" do not exist. Further, informing the Gisby caller that there is an "unusually long queue" is not synonymous with "informing caller of estimated hold time." The caller of the present invention is informed of an exact wait time, i.e. 20 minutes, and not a generality of "an unusually long queue," which is subjective and not an exact amount of time.

Further, the Examiner notes that since the Gisby caller "disconnects and does other activities while keeping his position in the queue it is inherent that a paused hold status is being created." However, disconnecting a call as in Gisby does not create a paused hold status as described by the present invention. The caller of the present invention is actively on hold and does not disconnect the call. There can be no "paused hold status" of the present invention if the call is disconnected, as in Gisby, even though the Gisby caller remains in the queue.

The Examiner admits that Gisby does not specifically

teach requesting by the caller an amount of time for paused hold period. Thus, while Gisby has a general concern with hold queue management, the reference fully fails to disclose either of the above elements in Applicants' novel combination solution in response to informing caller of estimated hold time and options for managing caller's hold position in the queue, and creating a paused hold status for a period of time responsive to caller's request.

Nabkel et al. (US6,011,845) the Modifying Reference Fails to Make Up for the Deficiencies of the Basic Gisby Patent

The teachings in Nabkel fail to make up for these deficiencies in the basic Gisby patent. While the Examiner has pointed to general statements in Nabkel related to requesting by the caller an amount of time for paused hold period, Nabkel still fails to suggest Applicants' claimed request for a specific amount of time for the paused hold period. Nabkel merely provides a caller with an option to make a "selection of time slot" (Nabkel, column 14, lines 52-59). Nabkel teaches prompting a caller "to enter her preference for when she wants to [sic] notified that her call is near the top of the CCS queue." Further, claim 7 of Nabkel claims "initiating period information status updates of the calling party's status in the queue as a result of timer-based events..." The caller in Nabkel can specify "two slots from the top" or alternatively, an "interval of time" may be specified, such as "three minutes before an agent is likely available." This is quite different from the present invention caller's requested time period, since the caller of the present invention can request to pause a position in the hold queue for a "period of time", i.e. 15 minutes, and

not a "time interval" tied to or based upon an event.

Actually, the general statements in Nabkel could lead one skilled in the art away from making the Examiner's proposed combination of elements. Nabkel requires negotiating by an Intelligent Communications Device (ICD) to put caller in a queue for an agent, disconnecting the call while caller is on hold, and reconnecting the call with caller when caller's position in queue is reached. This certainly would lead one skilled in the art away from Applicants' immediate solution of hold queue management by a caller and not an ICD, wherein a caller specifies an amount of time for a paused hold status while staying on the line without disconnecting and reconnecting the line.

Combination of Gisby and Nabkel has been Made Solely in Light of Applicants' Own Teaching

Applicants submit that the Examiner's combination of Gisby and Nabkel references is being made not with the requisite foresight of one skilled in the art, but rather with the hindsight obtained solely by the teaching of the present invention. This approach cannot be used to render Applicants' invention unpatentable. What the Examiner has done is used Applicants' disclosure as a guideline, and the picked and combined elements from each of the Gisby and Nabkel references based solely of Applicants' own teaching.

> "To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art references of record convey nor suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." W. L. Gore, 721 F 2d at 1553, 220 USPQ,

pp. 312-313.

"One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." In re Fine, 5 USPQ 2d 1596 (C.A.F.C.) 1988.

Accordingly, it is submitted that the suggestion for combining Gisby with Nabkel in the manner proposed by the Examiner could only come from Applicants' own teaching, and, thus, cannot form any basis for a combination of references.

Furthermore, even if the elements from Gisby and Nabkel were to be combined in the manner suggested by Examiner, the combination would still lack significant elements of the combination of the present invention i.e.
There is 1) no paused hold status established in Gisby or Nabkel, and 2) the callers of Gisby and Nabkel cannot request a specific time period for the paused hold status.

Examiner's Argument Regarding Specific Claims 1, 4-10, 12, 13, 16 and 17

The Examiner in responding to the Applicants' argument points to holding a caller's position in a queue when a caller disconnects line of Gisby and Nabkel, and queue hold time intervals based upon an event in Nabkel. Applicants submit that neither Gisby nor Nabkel describe a paused hold status, and neither Gisby nor Nabkel allow a caller to request an amount of time for the paused hold status. Thus, the paused hold status and a caller's ability to request a specific amount of time for the paused hold period is not established by Gisby or Nabkel as claimed in the present

invention. Rather, in Nabkel, the caller can only request a time interval based upon an event. Here again, this interpretation of the teaching of Nabkel can only have pertinence if made in the light of Applicants' own teaching which as set forth above can not provide the basis for a rejection based upon a combination of references.

Applicants' Response to Examiner's Argument on Specific Claims 1, 4-10, 12, 13, 16 and 17

With respect to dependent claims 4, 5, 6, 7, 9, 10, and 12 which cover the above described invention are submitted to be patentable over the combination of Gisby in view Nabkel for all reasons set forth hereinabove for the patentability of independent claims 1, 8, 13, 16 and 17.

With respect to dependent claims 4, 5, 6, 7, 9, 10 and 12, these claims cover a further embodiment of the above described general invention wherein a caller is placed in a paused hold status position in a hold queue, and requesting by the caller an amount of time for paused hold period. Of course, these claims are submitted to be patentable over the combination of Gisby in view Nabkel for all reasons set forth hereinabove for the patentability of independent claims 1, 8, 13, 16, and 17. In addition, these dependent claims cover a combination of events which would indicate a paused hold status and request of a specific time period for the paused hold period by the caller. While Gisby may disclose the individual elements of hold queue management, there is no disclosure in the references of this combination of a paused hold status or requesting by the caller a specific time period for the paused hold period.

Claims 2, 3, 11, 14, and 15 are unobvious over the combination of Gisby (US6,002,760) in view of Nabkel et al. (US6,011,845), and, further in view of Walker et al. (US5,946,388) and, thus, are patententable under 35 U.S.C. 103(a).

The Final Rejection of claims 2, 3, 11, 14, and 15 as being unpatentable under 35 U.S.C. 103(a) over the combination of Gisby (US6,002,760) in view of Nabkel et al. (US6,011,845) and, further in view of Walker et al. (US5,946,388) is respectfully traversed.

The Walker and Nabkel references do not make up for the fundamental deficiencies of Gisby as a reference: creating a paused hold status wherein caller can request an amount of time for the paused hold period. Thus, Nabkel et al. and Walker et al. do not render the claims obvious under 35 U.S.C. 103(a) as set forth in the previous section of this Brief.

Gisby (US6,002,760) and Nabkel et al. (US6,011,845) The Basic References

The Examiner admits that Gisby in view of Nabkel et al. does not specifically teach the elements in claims 2, 3, 11, 14 and 15, and therefore relies on Walker et al.

Combination of Gisby, Nabkel et al. and Walker et al. has been Made Solely in Light of Applicants' Own Teaching

Applicants submit that the Examiner's combination of Gisby, Nabkel et al. and Walker et al. references regarding dependent claims 2, 3, 11, 14 and 15 is being made not with the requisite foresight of one skilled in the art, but

rather with the hindsight obtained solely by the teaching of the present invention. This approach cannot be used to render Applicants' invention unpatentable for the reasons asserted herein.

Examiner's Argument Regarding Specific Claims 2, 3, 11, 14 and 15

The Examiner admits that with regard to claims 2 and 14, Gisby in view of Nabkel does not specifically teach "returning the caller to an on hold status to create a second position in the hold queue, wherein the second position in the hold queue is shorter than or equal to the first position in the hold queue," and relies on Walker et al. Applicants concede that Walker teaches this element.

Examiner also relies on Walker with respect to claims 3 and 11 for a general disclosure in the art of the caller's request changing the caller's position in the hold queue, which Applicants also concede is so. The Examiner states the motivation for the modifications in claims 2, 3, 11, and 14 is to "have doing in order to provide a caller with option to move his position up or down in queue so that he can utilize his idle time to perform other activities." However, Gisby, Nabkel, and Walker do not allow a caller to specify an amount of time, i.e. 15 minutes, for a paused hold period. Therefore, the callers of Gisby, Nabkel, and Walker must wait for a time interval based on an event, or wait for a communications system to call them when their position in the queue is reached, which time said callers cannot predict and therefore cannot commit to any certain amount of time for performing other activities.

Examiner relies on Walker with respect to claim 15

regarding "decreasing the amount of time on hold in the second position if the party returns to an on hold status before the expiration of the requested pause time." The Examiner states the motivation for the modification related to claim 15 is "to have doing so in order to provide a caller an opportunity to establish a connection with an agent within a period of time shorter than expected waiting time in queue." It is submitted that Gisby, Nabkel, and Walker do not have any suggestion of Applicants' invention element wherein a caller specifies a certain amount of time for a paused hold period.

The Examiner in responding to the Applicants' argument points to returning a caller to an on hold status to create a second position in the hold queue, the caller's ability to change his position in the hold queue, and decreasing the amount of time on hold in the second position if the party returns to an on hold status before the expiration of the requested pause time. Applicants submit that while Gisby, Nabkel and Walker disclose returning a caller to a hold status in a hold queue, they do not describe a paused hold status, and Gisby, Nabkel and Walker do not allow a caller to request an amount of time for the paused hold status. Since the paused hold status and a caller's ability to request a specific amount of time for the paused hold period is not established by Gisby, Nabkel or Walker as claimed in the present invention, the Examiner's rationale for the motivation for the modification is flawed. Since a Gisby, Nabkel and Walker caller cannot predict his wait time, he is restricted in performing other activities while on hold. The interpretation of the teachings of Gisby, Nabkel and Walker can only have pertinence if made in the light of

Applicants' own teaching which as set forth above can not provide the basis for a rejection based upon a combination of references.

Applicants' Response to Examiner's Argument on Specific Claims 2, 3, 11, 14 and 15

With respect to dependent claims 2, 3, 11, 14 and 15 which cover the above described invention are submitted to be patentable over the combination of Gisby in view Nabkel and further in view of Walker for all reasons set forth hereinabove for the patentability of independent claims 1, 8, 13, 16 and 17.

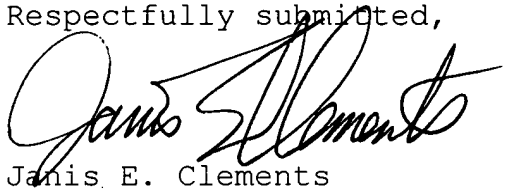
With respect to dependent claims 2, 3, 11, 14, and 15, these claims cover a further embodiment of the above described general invention wherein a caller is placed in a paused hold status position in a hold queue, and requesting by the caller an amount of time for paused hold period. Of course, these claims are submitted to be patentable over the combination of Gisby in view Nabkel and further in view of Walker for all reasons set forth hereinabove for the patentability of independent claims 1, 8, 13, 16, and 17. In addition, these dependent claims cover a combination of events which would indicate a paused hold status and request of a specific time period for the paused hold period by the caller. While Gisby may disclose the individual elements of hold queue management, there is no disclosure in the references of this combination of a paused hold status or requesting by the caller a specific time period for the paused hold period.

Conclusion

In view of the foregoing, claims 1-17 are submitted to be unobvious over the combination of Gisby (US6,002, 760) in view of Nabkel (US6,011,845) and further in view of Walker (US5,946,388) under 35 U.S.C. 103(a) and, thus, are patentable.

Accordingly, the Board of Appeals is respectfully requested to reverse the final rejection and find claims 1-17 in condition for allowance.

Respectfully submitted,



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VIII. Claims Appendix

1. A method of managing a hold queue at a call center comprising:

receiving an incoming telephone call from at least one caller;

placing the caller in a first position in the hold queue;

informing caller of estimated hold time and options for managing caller's hold position;

responsive to a request from a caller, pausing the first position in the hold queue to create a paused hold status wherein caller remains in position in the queue while caller can opt to move away from telephone while on hold without losing caller's position in the queue;

requesting by the caller an amount of time for paused hold period;

determining when the requested paused hold period has ended;

and

placing the call back into the hold queue at paused position.

2. The method of claim 1, further comprising returning the caller to an on hold status to create a second position in the hold queue, wherein the second position in the hold queue is shorter than or equal to the first position in the hold queue.

3. The method of claim 1 wherein the request comprises changing the caller's position in the hold queue.

4. The method of claim 1 wherein the request comprises pausing the caller's position for a period of time.

5. The method of claim 1 further comprising crediting pause time to the caller based on the amount of time the caller has been in the hold queue.

6. The method of claim 1 wherein the caller has been on hold for a period of time not less than the period of time requested.

7. The method of claim 1 further comprising forwarding the call to an attendant when the attendant is available.

8. A method of managing a hold queue at a call center comprising:

receiving an incoming telephone call from at least one caller;

placing the caller in a first position in the hold queue;

informing caller of estimated hold time and options for managing caller's hold position;

pausing the first position in the hold queue to create a paused hold status wherein caller remains in position in the queue while caller can opt to move away from telephone while on hold without losing caller's position in the queue;

requesting by the caller an amount of time for

paused hold period;
determining when the requested paused hold period has ended;
and
placing the call back into the hold queue at paused position.

9. The method of claim 8 further comprising detecting that the caller is unavailable for connection to an attendant.

10. The method of claim 8 further comprising receiving a request from a caller to pause the first position in the hold queue.

11. The method of claim 10 wherein the request comprises changing the caller's position in the hold queue.

12. The method of claim 10 wherein the request comprises pausing the caller's position for a period of time.

13. A method comprising:
receiving an incoming telephone call from a caller;
placing the call in a hold queue;
informing caller of estimated hold time and options for managing caller's hold position;
monitoring how long the caller has been on hold;
receiving a request from the caller to pause a first position in a hold queue for a period of time;

granting the request based on the amount of time the caller has been on hold wherein caller remains in the first position in the queue while caller can opt to move away from telephone while on hold without losing caller's position in the queue; and

placing the call back into the hold queue at paused position.

14. The method of claim 13 further comprising, returning the party to an on hold status to create a second position in the hold queue, wherein the second position in the hold queue is shorter than or equal to the first position in the hold queue.

15. The method of claim 14 further comprising, decreasing the amount of time on hold in the second position if the party returns to an on hold status before the expiration of the requested pause time.

16. A system for managing a hold queue at a call center comprising:

a communications device for receiving a call;

means for receiving an incoming telephone call from at least one caller;

means for placing the caller in a first position in the hold queue;

means for informing caller of estimated hold time and options for managing caller's hold position;

means responsive to a request from a caller, for

pausing the first position in the hold queue for a period of time to create a paused hold status wherein caller remains in the first position in the queue while caller can opt to move away from telephone while on hold without losing caller's position in the queue;
means for requesting by the caller an amount of time for paused hold period;
means for determining when the requested paused hold period has ended;
and
means for placing the call back into the hold queue at paused position.

17. A computer program product for managing a hold queue at a call center, the computer program product comprising:
a recorded medium;
means, recorded on the recording medium, for receiving an incoming telephone call from at least one caller;
means, recorded on the recording medium, for placing the caller in a first position in the hold queue;
means, recorded on the recording medium, for informing caller of estimated hold time and options for managing caller's hold position;
means, recorded on the recording medium, for pausing the first position in the hold queue for a period of time to create a paused hold status wherein caller remains in the first position in the queue while caller can opt to move away from

telephone while on hold without losing caller's position in the queue;

means, recorded on the recording medium, for requesting by the caller an amount of time for paused hold period;

means, recorded on the recording medium, for determining when the requested paused hold period has ended;

and

means, recorded on the recording medium, for placing the call back into the hold queue at paused position.